IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 3726 of 2004(R)

PETITIONER:

BINO BABY ALEX, AGED 30 YEARS,
SON OF BABY ALEX, RESIDING AT ERUTHICKAL HOUSE,
KOTTAYAM.

BY ADV. SRI.H.B.SHENOY,
SRI.B.ASHOK SHENOY.

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD,**
   REPRESENTED BY ITS EXECUTIVE ENGINEER,
   ELECTRICAL DIVISION, PALLOM, KOTTAYAM DISTRICT.

2. **THE ASSISTANT EXECUTIVE ENGINEER,**
   KERALA STATE ELECTRICITY BOARD,
   ELECTRICAL MAJOR SECTION, KOTTAYAM EAST,
   KOTTAYAM.

3. **THE ASSISTANT ENGINEER,**
   KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION
   KOTTAYAM EAST, KOTTAYAM.

BY ADV. SRI.C.K. KARUNAKARAN, S.C, KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.3726/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LETTER NO. AE/INSP/2001-2002/124/7/8/2001 DTD. NIL ISSUED TO PETITIONER BY R.2.

EXT.P.2: COPY OF THE BILL NO. E.697661 DTD. 18/08/2001 ISSUED TO PETITIONER BY R.2.

EXT.P.3: COPY OF THE ORDER NO. GB1/OP. NO. 47/01 OF CDF/KTM/340 DTD. 20/01/2004 ISSUED TO PETITIONER BY R.1.

RESPONDENT'S EXHIBITS:

EXT.R3.A: COPY OF THE SITE MAHAZAR PEPARED BY RESPONDENTS.

EXT.R3.B: COPY OF THE BOARD ORDER DTD. 18/09/2002.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) NO.3726 OF 2004

DATED 26TH FEBRUARY, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

(I) "To call for the records and files leading to Ext.P2 bill issued by the 2nd respondent, Ext.P3 order issued by the first respondent and quash Exts.P2 and P3 by issuance of a writ in the nature of certiorari or any other appropriate writ, order or direction.

(ii) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the respondents not to disconnect the electric connection to the petitioner's computer training institute under Consumer No.6559 of Electrical Major Section, Kottayam East, on the basis of Exts.P2 and P3."

As far as penalty for unauthorised connected load is concerned, it is now settled law in view of the Bench decision of this Court in W.A.1231/03 that the penalty has to be limited to the fixed charge portion. It is held that there shall not be any penalty by way of proportionate energy charges. The impugned demands are quashed making it clear that the liability of the petitioner shall only be for the penalty for fixed charge portion. The revised demand shall be issued to the petitioner and the amounts already remitted by the petitioner shall be adjusted.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

OP NO. 2

tgs

KURIAN JOSEPH, J

O.P.NO. OF 2001

J U D G M E N T

DATED 25TH MAY, 2006.